

Allegheny County Health Department

DIRECTOR

Bruce W. Dixon, M.D.



AIR QUALITY PROGRAM

301 39th Street – Bldg. #7
Pittsburgh, PA 15201-1891

Phone: (412) 578-8129

Fax: (412) 578-8144

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Regional Administrator
U.S. Environmental Protection Agency, Region III
1650 Arch Street (Mail Code: 3RAOO)
Philadelphia, PA 19103-2029

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EPA, REGION III
OFFICE OF REGIONAL ADMINISTRATOR

Dear Mr. Garvin,

This "60-day letter" responds to U.S. Environmental Protection Agency (EPA) Administrator's request for information concerning the implementation of the "Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule; Final Rule" (Tailoring Rule) published in the *Federal Register* on June 3, 2010. See 75 Fed. Reg. 31514. Specifically, EPA has requested, in relevant part, that states explain whether they will apply the meaning of the term "subject to regulation" as established by EPA in the June 3, 2010, final rule for the prevention of significant deterioration (PSD) and Part 70 Title V permitting programs. For states applying the meaning of the term "subject to regulation," EPA wants to know whether the states intend to do so without undertaking a regulatory or legislative process... ". 75 Fed. Reg. 31525.

Prevention of Significant Deterioration

On December 14, 1983 and again on March 26, 2003, Allegheny County received full delegation of authority for the implementation and enforcement of the federal Prevention of Significant Deterioration (PSD) program as codified at 40CFR 52.21 (See 48FR55625 and 68FR14617, respectively). The Allegheny County Article XXI, §2102.07 says "The Prevention of Significant Deterioration (PSD) requirements as promulgated in 40 CFR §52.21 by the Administrator of the EPA pursuant to Section 161 of the Clean Air Act are hereby adopted in their entirety and incorporated herein by reference. For the purposes of this Section all of the definitions adopted by the federal regulations in this subsection are hereby incorporated by reference, including those of source and major source. Additions, revisions, or deletions to the PSD requirements adopted by EPA are incorporated into this Article and are effective on the date established by the Federal regulations, unless otherwise established by regulation of the Department." The Tailoring Rule for PSD is incorporated into 40CFR 52.21, therefore the Department is in a proper position to incorporate both greenhouse gas permitting and the Tailoring Rule into our PSD program.

On July 1, 2008 the Pennsylvania Department of Environmental Protection (PADEP) submitted to the Environmental Protection Agency (EPA) a SIP revision to incorporate the Allegheny County PSD program and accompanying Article XXI §2102.07 regulations. On September 2, 2008 EPA sent a letter to PADEP with a determination that this submittal is complete. When that submittal is final, the ACHD PSD program will be a SIP program. The regulations themselves do not change, and so, ACHD will continue to be able to incorporate both greenhouse gas permitting and the Tailoring rule into our PSD Program.

Incorporating Greenhouse Gas Permitting and the Tailoring Rule into Title V Permitting

The Allegheny County Title V program was approved by EPA on November 1, 2001, effective December 17, 2001. (See 66FR55112.) All major sources, as defined in Article XXI are required to obtain and operate under a major source operating permit. The definition of "major source" in Article XXI includes, "a stationary source of air pollutants that directly emits or has the potential to emit, 100 tpy or more of any air pollutant..." Article XXI does not include a definition of air pollutant, and so has been interpreted to use the Clean Air Act definition, which would include greenhouse gas emissions. Therefore, greenhouse gas emissions can and will be included in future Title V permits.

We do not find in our regulations or our Title V program submission sufficient regulatory authority to limit the Title V program to the thresholds contained in the Tailoring Rule. The Department intends to correct this within the next 8 months.

Should you have any questions or need additional information, please contact me by email at jthompson@achd.net or by telephone at 412-578-8103.

Sincerely,

A handwritten signature in cursive script that reads "J E Thompson".

James Thompson, Manager,
Air Program, Allegheny County Health Department